

**MINUTES OF THE REGULAR MEETING OF THE
LA CAÑADA FLINTRIDGE CITY COUNCIL
HELD ON MONDAY, AUGUST 2, 2004
IN THE CITY COUNCIL CHAMBERS AT 1327 FOOTHILL BLVD.
LA CAÑADA FLINTRIDGE, CALIFORNIA**

1. Call to Order

Mayor Olhasso called the meeting to order at 7:10 p.m.

2. Roll Call

Councilmembers present were Gregory Brown, Stephen Del Guercio, David Spence, Anthony Portantino, and Laura Olhasso.

Staff members present were City Manager Alexander; City Attorney Steres; City Treasurer Voss; Director of Public Works Castellanos; Director of Community Development Stanley; City Engineer Kwan; Senior Planner Buss; Senior Management Analyst Meyer; Management Analyst Adams; Administrative Intern Alameda; and City Clerk Wahlsten.

3. Pledge of Allegiance

The Pledge of Allegiance was led by Sheriff's Lieutenant Marie Hanna.

4. Comments from the Public

The following persons were present wishing to speak:

James Short, Journey's End, property owner in Sewer Area 3B, stated he had tried to get copies of the bond documents, including the official statement, from the underwriter since the City charges \$.25 a page for copies. The underwriter stated he must get them from the City. Then on Friday, the City Attorney served him with papers in response to his lawsuit stating a hearing is scheduled for August 20th. On Saturday he received another packet in the mail stating the hearing was August 27th. City Attorney Steres clarified that since they were able to serve Mr. Short personally on Friday, the hearing is August 20th.

Mayor Pro Tem Portantino noted there is an item on the Consent Calendar to reduce the photocopy fees.

Patricia stated she lives on Leata Lane in Area 3A. She asked if the loan made by the City to the School District was legal since a portion of Area 3A is not in the School District. She thinks the entire city should be included in one school district. City Attorney Steres stated the agreement was a policy decision and was not illegal. The loan is from General Fund monies, not Assessment District funds.

Council noted that the school districts were established prior to incorporation and any change in their boundaries must be a decision of the districts, not the City.

The speaker asked questions about why her area is being connected to a different sewer system, what her costs will be for maintenance, and why the whole city isn't assessed the same. Director of Public Works Castellanos and Councilmembers responded to her questions.

Presentations

5. Public Safety Update – Sheriff's Department

Lt. Hanna presented the report.

Consent Calendar

City Clerk Wahlsten noted she distributed a revised page for the June 29, 2004 minutes.

Councilmember Spence requested the minutes of the budget hearings reflect the intention to complete the Angeles Crest, Foothill Boulevard, Chevy Chase intersection improvements this fiscal year.

Mayor Olhasso requested the June 30, 2004 minutes be amended to reflect the Baptiste Way improvements are subject to a re-survey of the street.

Motion by Councilmember Spence, seconded by Councilmember Brown to approve the Consent Calendar as follows:

6. Approval of Minutes of the City Council:
 - June 23, 2004 Special Meeting
 - June 24, 2004 Special Meeting
 - June 29, 2004 Special Meeting
 - June 30, 2004 Special Meeting
7. Receive and file Commission Agendas
 - Planning Commission Action Agenda from Meeting July 27, 2004
 - Public Safety Commission Agenda for Meeting July 28, 2004
8. Approval of Warrant Resolution No. 04-14
9. Award of bid to Pavement Coatings Co, in the amount of \$231,216, plus \$15,784 for contingencies, for 2003-04 Slurry Seal Program.
10. Accept Miscellaneous Concrete Repair work by Vart Construction and Authorize Staff to File Notice of Completion.

11. Accept Installation of Sub-Drainage Systems at La Cañada High School Athletic Fields by Sand Channel Greens, Inc. and Authorize Staff to File Notice of Completion.
12. Resolution No. 04-40, entitled, "A Resolution of the City Council of the City of La Cañada Flintridge Denying an Appeal of a Planning Commission Denial of an Amendment to Hillside Development Permit 01-36 and Floor Area Review 02-21 for a new Pool House & Grading, Landscaping Work at 1874 Palm Terrace Court requested by Robert & Gayla Gazmarian." (Confirming action taken July 19, 2004, Item 17)
13. Denial of Claims: Freddy Collier.
14. Resolution No. 04-41, entitled, "A Resolution of the City Council of the City of La Cañada Flintridge Setting forth charges for Photocopies, Transcripts, Set-Up and Listening Time for Tapes of Meetings and Supervision of Private Photocopy Companies and Rescinding Resolution No. 87-33."
15. Amendment to the Joint Use Agreement re Term of the Agreement to comply with State Proposition 12 Per Capita Bond Act minimum land tenure requirements in order to use bond funds to improve joint use facilities.
19. Resolution No. 04-42, entitled, "A Resolution of the City Council of the City of La Cañada Flintridge Establishing Animal Care and Control Fees and Rescinding Resolution No. 87-57 (paragraph 2) and Resolution No. 97-14."

Motion carried unanimously.

Mayor Olhasso noted that Item 17 will be considered jointly with the Local Financing Authority.

17. Authorization to Issue Bonds for Assessment District 04-1 (Continued from 7-19-04, Item 16)
 - a. Resolution No. 04-___ of the City Council
 - b. Resolution No. 04-___ of the Local Financing Authority

City Manager Alexander introduced Warren Diven with Best Best & Krieger, special bond counsel, to present the item. Mr. Diven noted this item was continued from the July 19, 2004 City Council meeting due to a lawsuit initiated by Mr. Short. Staff has reviewed the litigation and recommends the Council move ahead with authorizing the issuance of bonds. The financing program will involve the issuance of limited obligation improvement bonds by the City that would be secured by the remaining unpaid assessments within Assessment District 04-1 (Sewer Areas 3A & 3B). The Local Financing Authority will also issue bonds and use the proceeds to purchase the City's bonds. The Authority's revenue bonds would be secured by the payment of debt service on the City's improvement bonds.

The financing team applied for an underlying rating on the Assessment District itself. Standard & Poors has provided a tentative rating of A- for the District which is a very favorable rating. In addition, the City made application with five municipal bond insurers to insure the Authority bonds. We received quotes from four of the five and would recommend the City agree to obtain the municipal bond insurance. This enables the Authority to take advantage of the municipal bond insurers' AAA rating to get the lowest possible interest rate on the Authority bonds and, hence, the City's improvement bonds as well.

By the adoption of the Resolution, the City authorizes the issuance of the improvement bonds in an amount equal to the unpaid assessments; authorizes the City Treasurer to determine the final bond amount; approves the form of the bond indenture agreement between the City and BNY Western Trust Company as fiscal agent that establishes the terms and conditions under which the improvement bonds would be issued and administered; approves the bond purchase agreement between the City and the Authority which establishes the terms and conditions under which the City would agree to sell bonds to the Authority and the Authority would agree to buy those bonds; approves the bond purchase agreement between the City, the Authority and Stone & Youngberg as the underwriter that establishes the terms and conditions under which Stone & Youngberg would agree to purchase the bonds of the Authority; approves the Preliminary Official Statement which is an offering document available to potential purchasers of the Authority bonds that gives relevant information for an informed purchase decision; and approves a continuing disclosure agreement required by the Securities & Exchange Commission. The City Manager is authorized to make certain changes, particularly related to compliance with the commitment by the insurers to insure the bonds and, if necessary, to establish terms and conditions under which the Authority bonds could be called with the proceeds of the improvement bonds, in the event the City obtains a State loan and State loan proceeds rather than bond proceeds are used to move forward with the project.

In response to Council query, it was noted that \$4.5 million has been collected in the pre-payment cash collection period.

Larry Rolapp, Fieldman, Rolapp & Associates, Financial Advisor on the project, reviewed the structure and flow of funds. He showed the two scenarios showing the savings using insured/rated debt rather than uninsured/non-rated debt. In order to structure the offering so that State loan money could be utilized if it became available there is a call provision that will increase the cost of debt service for the bonds, but will enable a significant savings if State loan money does become available. He emphasized that the financing team is exploring other options that may be recommended depending on the timing of the financing.

Angel Lucero, Community Funding Solutions, gave the most current information about the State loan process. Initially when the State put the loan program on hold, they said that once an agency started construction, that agency would no longer have any access to the loan program. The State now has the staffing they needed to reinstate the program and they are now saying they are willing to work with the City and in October will re-open our case. All construction that takes place after the Facility Plan Approval can be financed with the State loan. We are striving to have the Facility Plan Approval by December. The State anticipates

issuing their Revenue Bonds by May, 2005 and that starts the time period to begin negotiating the loan commitment and loan contract. At best, the process would be complete in September, 2005, with the first proceeds received later that fall.

Council requested Ms. Lucero to write a letter to the State Water Resources Board confirming our understanding of this process with a copy to Dave Bruns of the Sanitation District. Mr. Bruns was instrumental in getting Ms. Lucero in contact with the appropriate people at the State.

Mayor Olhasso asked if the pre-payment period could be extended since the financing is on hold due to Mr. Short's lawsuit. Mr. Rolapp concurred, but noted the County will charge a \$13 fee to change the assessment on the tax roll. That should be charged to the property owner in addition to the assessment amount.

Motion by Mayor Pro Tem Portantino, seconded by Councilmember Brown to re-open the cash collection period to end at 5:00 p.m. on September, 3, 2004. Property owners would continue to receive the 11.4% discount, but be charged the \$13 fee that the County will charge the City. Motion carried unanimously. A letter will be sent out to all the owners who did not pay their entire assessment during the first cash collection period informing them of this extended opportunity.

Jim Short asked several questions based on the consultants' presentations. He asked what the proposed annual assessment for Areas 3A & 3B will be and why we don't wait until we know for sure if we have the State loan before proceeding. He continues to oppose the Resolutions presented tonight. He stated that with his lawsuit, he is not trying to put up roadblocks, but feels his legal rights have been violated and he wants the court to decide that. He asked if the construction contract is under protest in Area 2.

Mayor Olhasso noted that we have a construction bid that will not be good forever and if we don't proceed in a timely manner, the construction costs will most likely be higher.

Mr. Rolapp stated that the estimated proposed annual assessments are approximately \$1,700 for Area 3A and \$1,400 for Area 3B.

City Attorney Steres stated that the contractor is not working under protest in Area 2. There are change orders, but that is the norm. The contractor is currently ahead of schedule.

Mayor Olhasso clarified that even if the costs for the project increase due to higher interest rates and attorney's fees for the lawsuit, the property owners' assessments will not increase above what was voted on. The increased costs will come from the contingency fund. Any funds left in the contingency fund at the end of the project is returned to the property owners.

Motion by Councilmember Spence, seconded by Councilmember Brown to adopt Resolution No. 04-43, entitled, "Resolution of the City Council of the City of La Cañada Flintridge Authorizing the Issuance of Limited Obligation Improvement Bonds for Assessment District No. 04-1 (Sewer Project Nos. 3A & 3B), Approving the Form of Bond Indenture, Bond

Purchase Contract, Authority Bond Purchase Agreement, Preliminary Official Statement and Continuing Disclosure Certificate and Authorizing other actions in connection therewith.” Motion carried unanimously.

Public Hearings

18. Certification of Compliance with Congestion Management Plan

Staff report by Senior Planner Buss. Since 1994, the City has participated in efforts to reduce traffic congestion and improve air quality through the County-wide Congestion Management Plan. The City is required to certify annually that the impacts of new development are being offset by measures to reduce traffic congestion and/or improve air quality. This year there is a new reporting format while MTA conducts a Nexus Study to explore the feasibility of implementing a congestion mitigation fee to meet CMP Deficiency Plan requirements.

Mayor Olhasso opened the public hearing. There was no one present wishing to speak. Mayor Olhasso closed the public hearing.

Motion by Councilmember Del Guercio, seconded by Councilmember Spence to adopt Resolution No. 04-44, entitled, “A Resolution of the City of La Cañada Flintridge, California, Finding the City to be in Conformance with the Congestion Management Program (CMP) and adopting the CMP Local Development Report, in accordance with California Government Code Section 65089.” Motion carried unanimously.

Ordinances

19. Ordinance No. 350– Adoption – Adding Chapter 6.40 to the La Cañada Flintridge Municipal Code to Regulate Massage Establishments

AND

Resolution No. 04-____ - Establishing Fee for Massage Establishment and Operator Permits

Staff report by City Attorney Steres and Senior Management Analyst Meyer. Ordinance No. 350 is presented for a second reading and adoption, along with the Resolution establishing fees. The fees are based on estimates of Sheriff and staff time to process the application.

Motion by Councilmember Del Guercio, seconded by Councilmember Spence to direct the City Attorney to read the title of Ordinance No. 350, waive further reading and adopt, and to adopt Resolution No. 04-45, entitled, “A Resolution of the City Council of the City of La Cañada Flintridge Establishing Fees for the Issuance of Massage Operator and Massage Technician Permits.” City Attorney Steres read the title of Ordinance No. 350, “An Ordinance of the City Council of the City of La Cañada Flintridge Adding Chapter 6.40 to the La Cañada Flintridge Municipal Code Regulating Massage Establishments.” Motion carried unanimously on a roll call vote.

Other Business

20. Changes to Sewer Project Specifications to improve the construction process for Assessment District 04-1

Staff report by Director of Public Works Castellanos. During the construction phase of Sewer Area 2 (Assessment District 02-1), there were certain problems including: storage of materials and equipment in residential areas; dust control; time between installation and final street resurfacing; and project schedule issues caused by the difficulty in obtaining all the necessary easements. To improve the process in Sewer Area 3 (Assessment District 04-1), staff has been working with Willdan to tighten the project specifications.

Dave Hunt, Senior Vice President with Willdan; Ken Taylor, Project Design Engineer; and Robert French, Construction Manager, made a presentation to the City Council. Mr. Hunt said some of the dust issues have been resolved by the contractor's purchase of a new street sweeper. The specifications for District 3 require daily clean-up with this type sweeper. Staff and the contractor are attempting to locate property that the contractor can use for off-site storage of equipment and materials during the Area 3 construction, to reduce the on-site storage. Descanso Gardens, Valley Water, and SCE property are possibilities. We will coordinate with Regional Water Quality Control Board on a plan to keep the silt out of the storm drains during the rainy season. The State will be the agency giving the direction to the contractor on this issue.

Mr. French stated that the contractor will be required to give a full and complete schedule prior to the start of work. They will be providing weekly updates and four week "look ahead" schedule that can be posted on the website. This will enable everyone to see if there are any scheduled events that will be impacted by the construction. These schedules are tied to progress payments. The contractor is required to use Primavera software which is the industry standard, to make it easier to review.

Other new requirements are the installation of laterals within five days of the mainline construction; grinding of the street prior to paving can be done no earlier than three days prior to final paving; permanent striping must be done within 72 hours after paving is completed; manhole frames must be raised to grade within 3 calendar days of paving; testing of the mainlines must begin within 20 calendar days of completion which will allow residents to connect sooner; repair work and construction must be concurrent.

Mr. Taylor said that all the easements are within the last phase of each project. There are five phases in each area. This will allow time to get the easements. Alternative bid items include water line and gas line relocation. This gives a unit price since we did not know quantities and eliminates change orders when a gas or water line needs to be relocated. He explained community contact efforts that will take place.

Councilmember Brown noted that he lived through this in his area and said we can always improve the process. He asked about the length of time between temporary and final paving. In Area 2, some streets have had temporary paving for a long time. Mr. French stated that the requirement for more timely line testing will ensure the final paving is done quickly. The temporary paving indicates the line has not been tested.

Councilmember Brown asked about the streets being returned to their prior condition. Mr. French stated that the inspector walks the street with the contractor and does a “punch list” of repair items. In case of a dispute, there is a video tape that is made prior to construction that can be used for reference.

Regarding easements, Mr. Hunt concurred that once a schedule is adopted for easement acquisition, if staff is unable to acquire the easement within the schedule, it will be brought to the City Council for eminent domain proceedings immediately in order to keep the project moving.

In response to Council query, Mr. Taylor stated that Area 3A has a construction schedule of 1-1/2 years. Area 3B’s schedule is 2 years and they will be done concurrently.

Mayor Pro Tem Portantino asked about piles of asphalt being left in the street. He understood they were only supposed to be there for five days and in some cases they were there much longer than that. Mr. French stated that as long as they are working in a construction area, the contractor has the right to use that area for stockpiling as long as it is not creating a hazard. Some of the constructions areas are large. Spoils from the excavation must be removed at the end of the day. Fines can be levied if these procedures are not met. Mayor Pro Tem Portantino asked to be notified the first time a fine is levied in Area 3.

Councilmember Brown asked about miscellaneous items such as cones, etc. being left behind when the construction is finished. Mr. French stated the contractor does have someone drive around the sites to try and eliminate these problems. He noted the contractor has improved his processes in the past year.

Mayor Olhasso acknowledged that building a project of this size in an already built out area is difficult and everyone has tried to be patient. Mayor Pro Tem Portantino stated he had received compliments from residents about the contractor accommodating their individual needs during the construction process.

Mr. Hunt stated Area 2 should be finished by the end of the year. Council thanked them for the presentation.

Jim Short asked if the agreement was finalized between the City and Crescenta Valley Water District, and between the City and the City of Glendale, and between the City and the City of Los Angeles to take the sewage from Area 3A. He stated this is a formal public records request for these agreements. He believes Area 3 should not be started until all these items are resolved.

21. Policy regarding above-ground residential encroachments within the public right-of-way (referred from January, 20, 2004, Item 16.)

Staff report by Director of Public Works Castellanos. This policy was reviewed by the Public Works and Traffic Commission at two meetings. The Commission felt the intent of the policy should be to discourage the public from constructing in the public right-of-way

and provide a consistent method of reviewing new or existing encroachments. The City Council's direction was to develop a policy that would designate the Director and Commission to be the decision makers regarding the issuance or denial of permits. Director's decisions are subject to appeal to the Commission and Commission decisions are subject to appeal to the City Council. While there are many existing encroachments in the City, it has been the practice to allow the existing encroachments to remain as -permitted and non-conforming until such time as they are: determined to be a safety or visibility problem; the existing encroachment is modified by the property owner; its removal or relocation is required by a City project; and/or complaints are received.

Following discussion, Council concurred that permits will be required, but questioned whether they should be required for mailboxes, particularly since many mailboxes are across the street or together with a neighbor's. They agreed that having a policy will be helpful in that it spells out who makes the decision and the criteria for the decision.

Council concurred to continue this item to another meeting so staff can re-work the policy to address concerns regarding mailboxes. They suggested staff contact other cities to see how they deal with this.

Concluding Business

22. Councilmembers' Reports regarding regional and local representation

Councilmember Spence stated he has been re-elected to a two-year term on the Joint Powers Insurance Authority Executive Committee. The JPIA has increased its membership from 92 to 108 in the last year, largely because of the lower workers' comp rates.

Mayor Pro Tem Portantino noted that four of the Councilmembers attended the League of California Cities Mayors & Councilmembers Conference last week. He commended City Attorney Steres for the two presentations he made. One was on hillside development and the other on telecommunications facilities in the public right of way.

Mayor Olhasso noted she had attended a session on energizing your downtown and came back with some ideas. She also got some good information from a session on emergency preparedness. The speaker was the Mayor of Paso Robles who talked about dealing with the aftermath of an earthquake.

Councilmember Brown stated he attended his first Pasadena City College Bond Oversight Committee meeting last week. Mayor Olhasso appointed him to replace Mayor Pro Tem Portantino.

Councilmember Brown stated he and City Manager Alexander attended a Contract Cities Association City Managers meeting last week. The County Auditor was the speaker. He's the force behind the attempt to re-evaluate the Sheriff's fees being charged to Contract Cities and firmly believes that Contract Cities are being significantly undercharged. He is now

trying to gather the facts to prove that. Contract Cities Association is trying to have a bigger voice in how they design the study.

23. Councilmembers' request for future agenda items

Council requested an agenda item on October 4th regarding Proposition 1A on the November ballot, That is the local government financing initiative.

Mayor Pro Tem Portantino stated one of the League sessions was on traffic calming methods. He has given the information on raised crosswalks to the Director of Public Works and would ask the Public Works & Traffic Commission to find a location for a demonstration project. It's an inexpensive project and designed for residential areas. He also had information on high visibility crosswalks. Council concurred to request the Commission to evaluate and report back.

24. Councilmembers' comments

Mayor Pro Tem Portantino extended kudos to the Foothill Summer Theater for their production of "Kiss Me Kate" and Assistance League for their production of "The Magic Flute."

25. City Manager and/or staff comments

City Manager Alexander stated that Christine McLeod of Southern California Edison has offered to take any Councilmembers who are interested on a tour. Councilmember Del Guercio stated he is interested.

Adjournment

Mayor Olhasso adjourned the meeting at 10:20 pm. She noted the next regular meeting will be on Tuesday, September 7, 2004.

Marjorie K. Wahlsten, CMC
City Clerk

Minutes approved by the City Council on September 20, 2004